IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

CONTEMPT PETITION NO. 48 OF 1994

Vidyavatsal Krantikiran
Annapragada ..... Petitioner.

versus

Dhodumama Sathe Homoepathic
Medical College & ors. ..... Respondents.

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Shri A.V.Anturkar for the petitioner- absent.
Shri R.V. Govilkar for Respondents 1 to 6.
Shri R.R.Bhosale for Mrs. V.R. Bhonsale for Respondent no.7.

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CORAM ; R.M.S. KHANDEPARKAR, J.

DATED; 20TH DECEMBER, 2004.

P.C.;

1. None for the petitioner. The learned advocates for the respondents - present.

2. The grievance of the petitioner relates to non compliance of the order dated 28-2-1989 passed by the Division Bench of this court. It is the contention of the petitioner that there was a direction issued by this court by the said order that the respondent college should separately make available posts for backward class candidates and the same should be filled in accordance with the statute No. 416. It is further

case of the petitioner that on 3-12-1991 an advertisement came to be issued by the respondent college without getting approval from the reservation cell of the University and without keeping any posts reserved for backward class candidates. Pursuant to the complaint made to the university in 1993, it was the university who was pleased to appoint an Enquiry Committee and the said committee submitted the report to the Vice-Chancellor of University, which was accepted by the Executive Counsel and direction was given to the respondent college to comply with certain terms and conditions mentioned in the report. Hence the present petition.

3. Considering the affidavit-in-reply and the arguments advanced by the advocate for the respondents, it is apparent that the order dated 28-2-1989 speak of disposal of the writ petition in accordance with the Minutes of Order. The Minutes of Order which were filed in the matter read thus:

"**MINUTES OF ORDER**

1. A Selection Committeeis to be formed consisting of the following members:-

1. Vice-Chancellor's nominee
2. Expert in the faculty nominated by the Vice-Chancellor.
3. Deputy Director, Homeopathy, State of Maharashtra.
4. Nominee of the management of respondent no.1.
5. Principal of the Respondent no.1 college i.e. Dhondumama Satha Homeopathy College.

The said Committee will interview the members of the teaching staff of Respondent no.1 college and on the basis of their academic qualifications, requisite experience and interview the committee shall submit its report to the Vice-Chancellor within 4 weeks after the interview are held.

2. The Respondent no.1 college has separately kept available posts for backward class candidates. The same may be filled in accordance with statute no.416.

3. In view of the minutes the petition is allowed to be withdrawn.

It is accordingly ordered that this order be punctually observed and carried into execution by all concerned."

Pursuant to the said Minutes or Order, the order which was passed by the Division Bench reads thus:

"Minutes or Order tendered by counsel, taken on record and marked X.

Petition disposed of in terms of Minutes."

4. Plain reading of the Minutes of Order and the order passed by the Division Bench thereof disclosses that the petition was disposed of in accordance with the Minutes of Order and the Minutes of Order were to the effect that the parties had arrived at certain understanding and on that count, the petition was allowed to be withdrawn. Apparently, therefore, there was no specific direction as such by the court to the respondent under the said order excepting that while accepting amicable settlement arrived at by the parties, the petition was disposed of.

5. The Minutes of Order re-produced hereinabove, nowhere disclosses any specific direction as such, nor any undertaking by any of the parties to be complied with though the understanding between the parties was to the effect that the selection committee to be comprised of certain stipulated incumbent of the officers, the interview to be of the candidates on the basis of their academic qualifications and requisite experience and the report of the interview to be submitted to the Vice-Chancellor and after that the college to keep available the posts for backward candidates in accordance with statute 416. The mere understanding between the parties which was recorded in the said Minutes of Order without any specific order accepting any undertaking as such by the court it cannot be said that even violation of that understanding between the parties would amount to Contempt of Court. For the purpose of Contempt of Court there has to be non-compliance of the direction issued by the court and the same should be by way of willful act on the part of contemnor. Considering the same there is absolutely no case against the respondent,

6. There is yet another reason for dismissal of the proceeding. According to the petitioner, the order

dated 28-2-1989 and the advertisement was issued on 3-12-1991. The Contempt proceedings were filed in 1994. Obviously they were filed beyond the period of five year and was not maintainable in view of section 20 of the Contempt of Court Act. For the reasons stated above, therefore, the petition is rejected. Notice stands discharged. There is no order as to costs.

7. In view of the disposal of the Contempt Petition, the Civil Application nos. 33 of 2003 and 2077 of 1995 do not survive and the same are also disposed of accordingly.

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